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Dated: December 22, 2004 Signature: _____

Michael R. Hull

Docket No.: 30320/17231
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Sreevinas Subramoney et al.

Application No.: 10/749,425

Filed: December 31, 2003

For: Dynamic Approach Monitoring-Based Approach
To Memory Management Collection Manager
Runtime Application



Confirmation No.: 9579

Art Unit: 2186

Examiner: Not Yet Assigned

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Request for Reconsideration for a Petition under 37 C.F.R. § 1.47(a) is submitted in response to the Decision Refusing 37 C.F.R. § 1.47(a) status having a mail date of October 26, 2004.

Inventor Mauricio Serrano has been located and the executed Declaration document is submitted herewith.

No additional fee for this Petition is believed due at this time. However, the Commissioner is hereby authorized to charge any fee deficiency, or to credit any overpayments, to Deposit Account No. 13-2855 of the undersigned's firm.

Should the Petitions Officer have any question of form or substance, he or she is encouraged to contact the undersigned attorney at the telephone number and address listed below.

Dated: December 22, 2004

Respectfully submitted,

By _____

Michael R. Hull

Registration No.: 35,902

MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant



Atty. Docket No: 30320/17231

DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe that I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "DYNAMIC PERFORMANCE MONITORING-BASED APPROACH TO MEMORY MANAGEMENT," the specification of which was filed on December 31, 2003 as Application Serial No. 10/749,425. I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56.

I hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Priority Claimed

_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(Application Serial Number)	(Country)	(Day/Month/Year Filed)	Yes	No
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(Application Serial Number)	(Country)	(Day/Month/Year Filed)	Yes	No

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

_____	_____
(Application Serial Number)	(Day/Month/Year Filed)
_____	_____
(Application Serial Number)	(Day/Month/Year Filed)

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or PCT international application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior application(s) in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56 which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

_____	_____	_____
(Application Serial Number)	(Day/Month/Year Filed)	(Status-Patented, Pending or Abandoned)
_____	_____	_____
(Application Serial Number)	(Day/Month/Year Filed)	(Status-Patented, Pending or Abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: I hereby appoint as my patent attorneys and patent agents, with full powers of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John B. Lungmus(18,566)	Thomas I. Ross (29,275)	Roger A. Heppermann	Bryan J. Lempia (39,746)
Allen H. Gerstein (22,218)	Kevin D. Hogg (31,839)	(37,641)	David C. Read (39,811)
Nate F. Scarpelli (22,320)	Jeffrey S. Sharp (31,879)	David A. Gass (38,153)	Thomas A. Miller (40,091)
Michael F. Borun (25,447)	Martin J. Hirsch (32,237)	Gregory C. Mayer (38,238)	William K. Merkel (40,725)
Carl E. Moore, Jr. (26,487)	Richard M. La Barge (32,254)	Michael R. Weiner (38,359)	Scott E. Baxendale (41,605)
Richard H. Anderson (26,526)	James J. Napoli (32,361)	Joseph A. Williams, Jr.	Brent E. Matthias (41,974)
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Richard B. Hoffman(26,910)	Michael R. Hull (35,902)	Paul C. Craane (38,851)	Kevin M. Flowers (44,684)
James P. Zeller (28,491)	Anthony G. Sitko (36,278)		William J. Kramer (46,229)

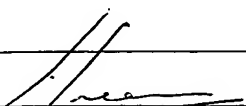
of MARSHALL GERSTEIN & BORUN LLP, with offices located at 233 South Wacker Drive, 6300 Sears Tower, Chicago, Illinois 60606-6357, telephone (312) 474-6300; and


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Michael Barre	44,023	Seth Z. Kalson	40,670	Ami P. Shah	42,143
Jay P. Beale	50,901	Peter Lam	44,855	David Simon	32,756
R. Edward Brake	37,784	Issac Lin	50,672	Steven P. Skabrat	36,279
Ben Burge	42,372	Alan Pedersen-Giles	39,996	Paul E. Steiner	41,326
Robert Chang	48,765	Anthony Martinez	44,223	Joni D. Stutman-Horn	42,173
George Chen	50,807	Molly McCall	46,126	David Tran	50,804
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Kenneth Cool	40,570	Paul Nagy	37,896	Robert Wawrzyn	54,654
Ted A. Crawford	50,610	Michael J. Nesheiwat	47,819	Calvin E. Wells	43,256
Robert Diehl	40,992	Dennis A. Nicholls	42,036	Stuart Whittington	45,215
Jeffrey S. Draeger	41,000	Lanny Parker	44,281	Michael Willardson	50,856
Cynthia T. Fraatz	39,973	Michael D. Plimier	43,004	Robert Winkle	37,474
Christopher Gagne	36,142	Michael Proksch	43,021	Rita Wisor	41,382
Sharmini N. Green	41,410	Kevin A. Reif	36,381	Sharon Wong	37,760
Robert Greenberg	44,133	Crystal D. Sayles	44,318	Steven D. Yates	42,242

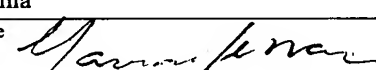
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APPLICABLE RULES AND STATUTES

37 CFR 1.56. DUTY OF DISCLOSURE - INFORMATION MATERIAL TO PATENTABILITY (Applicable Portion)

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentability defines, to make sure that any material information contained therein is disclosed to the Office.

Information relating to the following factual situations enumerated in 35 USC 102 and 103 may be considered material under 37 CFR 1.56(a).

35 U.S.C. 102. CONDITIONS FOR PATENTABILITY: NOVELTY AND LOSS OF RIGHT TO PATENT

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraph (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

35 U.S.C. 103. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER (Applicable Portion)

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

35 U.S.C. 112. SPECIFICATION (Applicable Portion)

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.